

Council Senate Members  
TOM BECK  
VICE-CHAIRMAN  
B.F. "CHRIS" CHRISTIAENS  
MACK COLE  
DEBBIE BOWMAN SHEA  
BRUCE D. CRIPPEN  
STEVE DOHERTY



Council House Members  
WILLIAM "RED" MENAHAN  
CHAIRMAN  
EMILY SWANSON  
DOUG MOOD  
MARK E. NOENNIG  
BILLIE I. KRENZLER  
PAUL SLITER

# Montana Legislative Council

PO BOX 201706  
Helena, Montana 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

## MINUTES

SEPTEMBER 18, 2000  
CAPITOL  
HELENA, MONTANA

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.**

### COMMITTEE MEMBERS PRESENT

Rep. William Menahan (Chairman)  
Sen. Tom Beck (Vice Chairman)  
Sen. Bruce Crippen  
Sen. Mack Cole  
Sen. Steve Doherty  
Sen. Debbie Shea  
Rep. Billie Krenzler  
Rep. Doug Mood  
Rep. Mark Noennig  
Rep. Emily Swanson  
Rep. Paul Sliter

### COMMITTEE MEMBERS EXCUSED

Sen. Chris Christiaens

## **STAFF PRESENT**

Robert B. Person, Outgoing Executive Director  
Lois Menzies, Incoming Executive Director  
Greg Petesch, Director of Legal Services  
Hank Trenk, Director, Legislative Information Technology  
Clayton Schenck, Legislative Fiscal Analyst  
Taryn Purdy, Principal Fiscal Analyst  
Karen Berger, Fiscal Services Manager  
Ellen Garrity, secretary

## **VISITORS**

Visitors' list, Attachment #1.

## **COMMITTEE ACTION**

- ! Approved the July 31, 2000, Minutes.
- ! Endorsed the proposed legislative training plan.
- ! Agreed to recommend to the House and Senate Deans that Caucus be held on Friday, November 17<sup>th</sup>. (Swanson)
- ! Agreed to request the drafting of the Code Commissioner bill. (Beck)
- ! Agreed to create an Indian Affairs Committee. (Beck)
- ! Adopted the proposed Administrative Rules changes. (Noennig)
- ! Approved LC8001. (Beck)
- ! Amended LC8002 to make salary and expenses for orientation retroactive to include the 2000 orientation session. (Noennig)
- ! Accepted the Judicial Redistricting Subcommittee recommendation.
- ! Agreed that the Legislative Council continue to study the judicial redistricting issue. (Noennig)
- ! Adopted the fee schedule for the 2001 Session proceedings.
- ! Adopted the computer system plan. (Sliter)
- ! Adopted the Program 21 budget. (Krenzler)
- ! Adopted the Program 20 budget. (Sliter)
- ! Approved the session employee classification and pay plan. (Swanson)
- ! Approved the State Administration Interim Committee request for one more meeting. (Cole)
- ! Approved the request of the Revenue and Taxation Interim Committee for an additional \$6,000 for the interim. (Beck)

## **CALL TO ORDER AND ROLL CALL**

Chairman Menahan called the meeting to order at 9 a.m. Rep. Mood was welcomed to the Legislative Council. He was appointed by Speaker Mercer to replace Rep. Ohs who had resigned effective September 11, 2000. The minutes of the July 31, 2000, meeting were approved. Sen. Crippen read into the record a letter from former state senator Bob Brown to Bob Person, outgoing executive director, with best wishes on his retirement.

## **LEGISLATOR TRAINING SESSIONS**

### Exhibit #1, Legislator Education Strategies

### Exhibit #2, Anticipated curriculum for new legislator training by Legislative Fiscal Division

Rep. Swanson reviewed the proposed plans for the legislator training session. The legislator training subcommittee members are Rep. Sliter, Rep. Noennig, Sen. Dougherty, and Rep. Swanson. Training for new legislators is scheduled for November 30 through December 2. December 2 will be the law school for legislators.

Mr. Person said a retroactive revision of presession statutes is necessary to authorize salary and travel pay for legislators-elect attending presession training.

Rep. Sliter said new legislators should be required to attend training.

Rep. Swanson reviewed the training breakout groups: Executive Branch, Judicial Branch, Tribal & Local Governments and Higher Education. Sen. Cole recommended asking the Tribal Governments Association to assist with the Tribal & Local Governments breakout group. He will help select a representative.

Sen. Beck recommended dropping the Higher Education breakout group because other state agencies are not included and Council members agreed.

Members discussed including a tour of the Capitol in the training session, including instruction on what service is provided by each office. Members agreed to include the location of committee hearing rooms and what kind of hearings are in what rooms, legislative staff offices, legislative branch offices, legislative protocol, and a list of acronyms. Members suggested there be no sponsored lunches during training sessions.

Rep. Swanson asked Sen. Crippen to lead a breakout session on leadership power and issues on Friday, December 1.

December 2 will be the Law School for Legislators. Ed Bartlett said he is representing the State Bar in the training session. The State Bar wants to contribute something meaningful to new and experienced legislators.

Greg Petesch said the law day instruction will help legislators see the big picture of legislation in the entire legal system.

Mike Pichette asked if training sessions would be open to the public. Chairman Menahan said sessions are totally open.

Sen. Doherty said it would also be useful to legislators to have a session on the effect a statute has on "the real world". For example, the effect legislation has on the work of a defense lawyer.

Rep. Noennig suggested a breakout session in the Law School for Legislators on the practice of law in the office rather than litigation.

Sen. Beck suggested including a list of budget acronyms. Rep. Noennig wants to include a discussion of the budget subcommittee process.

The Council endorsed the proposed legislator training plan with suggestions.

Taryn Purdy, Principal Fiscal Analyst, said the Legislative Fiscal Division (LFD) has a planned curriculum for new legislator training (Exhibit #2) which will include a manual of budget terms and acronyms. A large part of the training will be where to go for more information and when a legislator can become involved in the bill process to be most effective. There will be subcommittee training as well because there will be many new legislators on appropriation subcommittees.

### **CAUCUS DATE**

Mr. Person asked for a decision on the Caucus date.

Rep. Swanson moved to schedule Caucus for November 17 at 2:30 p.m. Because the Council is not authorized to set the Caucus date, the Council action will be a recommendation to the Senate and House Deans.

Sen. Cole made a substitute motion that the Caucus be held early morning of November 18. He and other legislators will be out of town at a meeting of the Council of State Governments on November 17.

There was opposition to Caucus on November 18 because that is the date of the Grizzly/Bobcat game.

Roll call vote on Sen. Cole's motion: Ayes – Sen. Beck, Sen. Cole, Rep. Mood, and Rep. Krenzler. Noes – Sen. Shea, Sen. Doherty, Rep. Menahan, Rep. Swanson, Rep. Noennig, and Rep. Sliter. The motion failed.

Vote on Rep. Swanson's motion to recommend to the Deans that Caucus be held on Friday, November 17: The motion passed.

### **CODE COMMISSIONER REPORT**

Exhibit #3, Code Commissioner Bill Report 2000

Greg Petesch summarized the 2001 Code Commissioner Bill Summary as appears in Exhibit #3. Twenty sections correct erroneous references to a section or subsection of law that are no longer accurate. Twenty-eight changes are to make consistent use of a defined term. Four sections change the designation of the Korea Conflict to the Korea War to reflect the congressional declaration. Four sections in the bill remove references to the liquor division which has been eliminated. Three sections clarify current debt collection procedure in which the Department of Revenue is the debt collecting entity rather than the Department of Administration. Two references to confederated governments in the Code were probably intended to be consolidated governments. Those will be eliminated because they don't exist. Two sections and a

repealer section reflect the striking of certain statutes enacted last session in light of the coal severance tax case.

Sen. Beck moved to request the drafting of the Code Commissioner bill. The motion passed. Sen. Beck will assign someone to carry the bill.

### **COUNCIL LEGISLATION**

Exhibit #3, LC8000

Mr. Petesch reviewed LC 8000, a bill to revise the interim committee process. The major substantive change is for those committees to receive agency legislation from the agencies for which the committees have oversight functions. In the past, the Legislative Council was the requestor for agency bills.

Mr. Petesch said the other substantive issue is creation of a separate State-Tribal Relations Committee that would remove the Indian affairs function from the Law, Justice, and Indian Affairs Committee.

This bill also adds a local government liaison function to the Education Committee.

The bill clarifies that the Council will be the entity to assign interim studies. It allows the committees to create subcommittees without Council approval.

Mr. Petesch said he could include in LC8000 a couple of suggested changes to the Administrative Procedure Act. Each of the interim committees has rule review functions. The change would require a review of the reasonable necessity for the rule. It would clarify that reasonable necessity cannot be a mere statement of what the rule does. It has to be why a rule is necessary.

The other proposed change for administrative rules is placing in statute that a rule is considered adopted on the date the adoption notice is filed with the Secretary of State. The rule becomes effective as provided in the rule itself.

Sen. Grosfield asked the Council for support of the State-Tribal Relations Committee. He was a member of the Law, Justice, and Indian Affairs Committee. The tribes in Montana didn't like the definition of the committee because Indian affairs seemed to be an afterthought. There was not enough time to deal with all the issues that came before the Law, Justice, and Indian Affairs Committee. The Committee spent most of its time working with the Department of Corrections. Thus, the Committee voted to request a separate Indian Affairs Committee.

Sen. Beck moved to create an Indian Affairs Committee. The motion passed.

Rep. Swanson asked how interim committees would be critiqued. Mr. Petesch said the legal division, research division, and the executive director are reviewing what worked and what didn't work in the interim committee design this interim. Some administrative changes can be made to make the process work better. The new structure of committees was a learning experience for everyone.

Mr. Person said the new structure created limits on the number of committees based on a combination of legislator and staff time.

Sen. Grosfield said the Local Government Funding and Structure Committee passed a motion to recommend the Council create another interim committee for Local Government to deal with remaining issues. The motion would add lay persons to the committee – four legislators (two from each house), three representatives of county government, two from cities and towns, one from K12, all to be appointed by the governor from a list of recommendations.

Rep. Swanson asked Sen. Grosfield if he is suggesting a statutory committee.

Sen. Grosfield said yes, and the committee recommends calling it the State and Local Government Relations Committee.

Sen. Beck suggested extending the committee for another interim as an ad hoc committee.

Sen. Grosfield said SB 184 set up the committee for one interim with staffing by the Department of Revenue.

Mr. Petesch said the draft bill for the State and Local Government Relations Committee provides for a study of allocations and jurisdiction of functions issues, uniform relations for local governments, procedures to change rules and statutes, and other issues.

Rep. Noennig suggested leaving the request for the State and Local Government Relations Committee as a separate bill for discussion purposes.

Mr. Petesch asked if the Council wants the administrative rules issues in LC8000.

Rep. Noennig moved to adopt the proposed administrative rules changes as presented by Mr. Petesch. The motion passed.

### **CHANGE TO LEGISLATIVE RULES**

Exhibit #5, Change to Legislative Council Rule to Implement LC8000.

Exhibit #6, LC8001

Exhibit #7, LC8002

Mr. Petesch said Exhibit #5 describes the changes in Legislative Rules necessary to implement LC8000. In addition, current statute requires that Joint Rules provide a suggested list of the standing committees from which each of the interim committees should be appointed.

LC8001 is a bill required by the Council after the last special session when several issues arose as to whether some of the committee meetings held prior to the special session were legal. This bill provides that a standing committee may meet prior to the special session for the purpose of holding hearings and taking action on preintroduced legislation that has been referred to that committee and that members of the

legislature engaged in that presession business are entitled to receive compensation and expenses.

Sen. Beck moved to approve LC 8001. The motion passed.

Mr. Petesch said LC8002 revises the laws relating to the presession caucuses and formally provides the Council with the role of legislative orientation. The bill provides that the Legislative Council will decide the time of presession caucus and that legislators will receive salary and expenses for days attending authorized legislation orientation and training. He asked if the Council wants to add a retroactive applicability clause to cover the 2000 orientation.

Rep. Noennig moved to amend LC8002 to make salary and expenses for orientation retroactive to include the 2000 orientation session. The motion passed.

### **SESSION MINUTES**

Exhibit #8, a letter from the Law, Justice, and Indian Affairs Interim Committee

Rep. Swanson submitted for the record a letter from the Law, Justice, and Indian Affairs Interim Committee supporting the Council's recommendation to the House of Representatives that they return to the traditional minutes.

### **JUDICIAL REDISTRICTING**

Exhibit #9, Report from the Judicial Redistricting Subcommittee

Susan Fox, staff for the Judicial Redistricting Subcommittee, said the subcommittee recommends that judicial redistricting not be proposed this session. The members of the subcommittee heard testimony from two District Court Judges recommending that judicial redistricting was inappropriate at this time because there is a significant proposal coming to the next Legislature to transfer the responsibility of funding the district courts to the state and because 30 district court judges are up for reelection.

The Council accepted the subcommittee recommendation.

Rep. Noennig said timing was one of the problems of this study. It is an important issue and there is a need for additional judges and/or redistricting. The Judicial Redistricting Subcommittee recommended a resolution recommending a study or a bill requiring a study.

Rep. Noennig moved that the Legislative Council continue to study the issue and appoint a similar subcommittee with representatives from the District Court Judges, State Bar, and County Commissioners. The recommendation is to finalize redistricting by 2005. The motion passed.

Ms. Fox said the charge is to decide whether or not to redistrict. Testimony was received at the September subcommittee meeting. The subcommittee wants the Council to know that a need was demonstrated for the possibility of new judges in several districts across the state. The subcommittee recommends that the Council

provide an opportunity for all districts interested in additional judges to bring testimony before the legislature.

Rep. Sliter said a Select Joint Judiciary Committee could work on some of the judicial redistricting issues in preparation for the Session. Sen. Beck agreed.



## **LAND TRANSFER ISSUES**

Exhibit #10, letter from the Department Natural Resources (DNRC) to the Council

Jeff Hagener, Administrator of the Trust Land Management Division, reported on the status of the non-trust state land inventory/record-keeping project requested by the Legislative Council. He said state land records are not in a central location. DNRC will request an FTE to inventory state lands and create a central repository of those records. The project would take approximately two years

Rep. Krenzler asked if the FTE would be the only cost of the project. Mr. Hagener said yes.

## **SET PRICES FOR LEGISLATIVE PROCEEDINGS**

Exhibit #11, Proceedings

Mr. Person reviewed the proposed costs of 2001 Session proceedings as described in Exhibit #11.

It was moved to adopt the fee schedule for 2001 Session proceedings. The motion passed.

## **LEGISLATIVE BRANCH COMPUTER SYSTEMS PLAN**

Exhibit #12, Legislative Branch Computer System Plan

Hank Trenk, Director of Legislative Information Technology, reviewed the Legislative Branch Computer Systems Plan. The law, (HB 496, 1989 session) requires the branch to develop a plan each biennium for the succeeding biennium. The law also establishes a Computer System Planning Council (CSPC) consisting of the Legislative Auditor, Legislative Fiscal Analyst, Executive Director of Legislative Services, and two members from each House. The CSPC had its final meeting of the interim on September 14 and adopted the plan (Exhibit #12).

Rep. Swanson asked what access she will have if she brings a laptop to the Session. Mr. Trenk said all Branch data is on the Internet.

Mr. Trenk said the 2001 Session legislators could bring their own computers with a modem. The Planning Council includes in the budget a pilot project of 18 laptops and associated services for legislators for the 2003 Session.

Rep. Sliter moved adoption of the computer system plan as presented. The motion passed.

## **FINAL APPROVAL OF BUDGET FOR SUBMISSION**

Exhibit #13, Legislative Branch Biennium Budget Comparison

Exhibit #14, Legislative Services Division 2003 Biennium Operating Budget, Program 20

Exhibit #15, LSD 2003 Biennium Operating Budget, Program 21

Clayton Schenck presented the overall budget of the Branch and the interim committee's portion of the budget.

Rep. Swanson asked about the 58 percent increase in personal services. Karen Berger said the personal services in Program 21 relate to all interim committees. There are two reasons for the increases. The legislative salaries are going up about 21 percent. The change was made in the pay plan last session. The second reason is the Districting and Appropriation Committee which was not funded fully for personal services last biennium.

Rep. Swanson asked why Council of State Governments (CSG) is more expensive than National Conference of State Legislators (NCSL).

Mr. Person said the new proposal for CSG includes money for full payment of dues each year of the biennium plus eight legislators to participate in CSG activities and attend three meetings each year of the biennium. The new proposal for NCSL includes eight members attending three meetings each year. NCSL dues are in the base and part of the CSG dues are in the base. The legislature is now a full participant in CSG and NCSL for the first time in years.

Ms. Berger reviewed the Program 21 budget.

Rep. Krenzler moved to adopt the Program 21 budget as presented. The motion passed.

Ms. Berger reviewed the Program 20 budget. This Program is the Legislative Services Division budget.

Rep. Sliter moved to accept the Program 20 budget. The motion passed.

#### **PUBLIC INFORMATION SUBCOMMITTEE**

Rep. Swanson said the subcommittee agreed to a demonstration project for the 2001 Session of the legislature. Money for that project will come from this biennium funding. Floor sessions of both House and Senate will be televised on closed circuit monitors within the Capitol. There will be 16 TV monitors around the Capitol. There may be limited video streaming available (watching floor sessions on a computer). The budget for the coming biennium will include broadcasting sessions out of the Capitol through video streaming and ultimately televised broadcasting through public access stations.

Mr. Person said Stephen Maly will be staffing this project during the 2001 Session.

#### **PAY PLAN FOR SESSION EMPLOYEES**

Exhibit #15, Addendum to Session Employee Classification and Pay Plan

Mr. Person said he, Marilyn Miller, Rosana Skelton, and Jim Kerins have been working on a project to fully implement the pay plan for session staff persons in the context of the Branch pay plan.

Jim Kerins said NCSL established a classification plan for all Branch regular positions. That same methodology will be applied to session positions. The issue is regular pay rates are less than the rates previously established for session staff. To provide equitable and competitive compensation for session employees, the legislative branch should provide additional pay for additional employee competency gained through experience with the legislative process.

Rep. Sliter said it is difficult to find good session staff to work for a short period of time.

Marilyn Miller said she, Ms. Skelton, and Mr. Kerins used the NCSL matrix in arriving at a salary progression scale. An employee with no qualifying legislative experience will be paid at step 1 of the appropriate grade, unless a documented exception is used. A person who has served as a legislator or an employee of the Senate or House for at least one-half of a regular session is entitled to be advanced one step for each session served, up to a maximum of five steps. Employees with more than five sessions of experience will still be paid at step 5. The Legislative Council will establish a matrix that provides a percentage increase in pay for each step attained through prior service.

Ms. Miller said she feels bad for new people who will be paid less than entry level used to be.

Mr. Kerins said one of the things that may be considered is not just looking at prior session service but allowing the session management to make judgement calls.

Rep. Swanson moved to approve session employee classification and pay plan. The motion passed.

### **INTERIM COMMITTEE ISSUES**

Exhibit #16, letter from State Administration, Public Retirement, and Veterans' Affairs Interim Committee to the Council

Exhibit #17, letter from Revenue and Taxation Interim Committee to the Council

Ms. Heffelfinger, staff of the State Administration Interim Committee said the Committee respectfully requested to be allowed to hold one additional committee meeting for the purpose of completing its oversight function for this interim.

Sen. Cole moved to notify the State Administration Interim Committee that they could meet one more time. The motion passed.

Jeff Martin, staff to the Revenue and Taxation Interim Committee requested, on behalf of the Committee, an additional \$6,000 to accommodate three meetings of the subcommittee examining individual income taxes and one meeting of the subcommittee considering the distribution of motor vehicle license revenue.

Sen. Beck moved to grant the request of the Revenue and Taxation Interim Committee. The motion passed.

### **NEXT MEETING AND ADJOURNMENT**

The next meeting will be November 17.

The meeting adjourned at 4:20 p.m.

CI0425 0297rpna.